Criminal Misc. Application No. 157 of 2003

Hon'ble Irshad Hussain, J.

Heard Sri Pawan Kumar learned counsel for the petitioner and learned A.G.A.

This is petition under Section 482 of the Code of Criminal Procedure for quashing the order-dated 25.07.2003 passed by Addl. Sessions Judge, Dehradun rejecting the application moved by the petitioner U/s 5 of the Limitation Act which was accompanied to the petition for setting-aside the summoning order in criminal complaint case No. 1999/2001.

The summoning order was passed on 06.09.2001 and whereas the revision was filed on 27.03.2002 together with the application U/s 5 of the Limitation Act. It was alleged that the petitioner was not served with the summoning order and was not, thus, aware of the same till he was informed on 20.03.2001 by servant of police station P.S. Gangnahar, Roorkee that a criminal case was filed against him in the court of C.J.M., Dehradun. The contention did not find favour with the learned Sessions Judge who was convinced that the notice to the petitioner was sent on his correct address. The observation is also based on the basis of the record of the case. It is also of significance that the claim made by the petitioner that someone told him about the pendency of the case against him is highly vague and is not substantiated by any cogent evidence. The petitioner was well aware of the proceedings against him and despite the notice dated 06.09.2001 deliberately avoided his appearance before the Magistrate concerned and moved the revision petition with delay without any sufficient cause. The application was, therefore, rightly dismissed by the learned Sessions Judge and the revision was consequently not maintainable as barred by time. There being no impropriety and illegality in the impugned order, the petition has no merit and is liable to be dismissed.

The petition is hereby dismissed.

(Irshad Hussain, J.)

04.08.2003:
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